

Senate File 89 - Introduced

SENATE FILE 89

BY EDLER

A BILL FOR

1 An Act creating a homeownership development tax credit
2 available for charitable contributions to certain
3 low-income housing developers in this state, and including
4 applicability provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 15E.152 **Short title.**

2 This subchapter shall be known and may be cited as the
3 *"Homeownership Development Tax Credit Act"*.

4 Sec. 2. NEW SECTION. 15E.153 **Purpose.**

5 The purpose of this subchapter is to increase the
6 availability of affordable housing in this state by encouraging
7 taxpayers to make charitable contributions to certain nonprofit
8 housing developers that create affordable single-family housing
9 to be sold to low-income households in this state.

10 Sec. 3. NEW SECTION. 15E.154 **Definitions.**

11 As used in this subchapter, unless the context otherwise
12 requires:

13 1. *"Department"* means the department of revenue.

14 2. *"Eligible housing developer"* means an organization
15 meeting the requirements of section 15E.155, subsection 2, and
16 certified as an eligible housing developer by the authority
17 pursuant to that section.

18 3. *"Eligible rural housing developer"* means an organization
19 meeting the requirements of section 15E.155, subsection 3,
20 and certified as an eligible rural housing developer by the
21 authority pursuant to that section.

22 4. *"Low-income household"* means a household with income
23 of eighty percent or less of the area median family income by
24 county as determined by the United States department of housing
25 and urban development.

26 Sec. 4. NEW SECTION. 15E.155 **Developer certification.**

27 1. *Application.* An organization may apply to the authority
28 in the manner prescribed by the authority to be certified as
29 an eligible housing developer or an eligible rural housing
30 developer.

31 2. *Eligible housing developer.* In order to be certified as
32 an eligible housing developer, an organization shall meet the
33 requirements of paragraph "a" or "b":

34 a. (1) The organization is organized under chapter 504 and
35 qualifying under section 501(c)(3) of the Internal Revenue Code

1 as an organization exempt from federal income tax under section
2 501(a) of the Internal Revenue Code.

3 (2) The organization has, for a minimum of three years prior
4 to the time of the application, been developing single-family
5 housing in this state to be sold to low-income households.

6 (3) The bylaws, articles, or other document relating to the
7 establishment of the organization provide that a purpose of the
8 organization is to develop affordable housing in this state to
9 be sold to low-income households.

10 (4) The organization agrees to provide to the authority
11 information reasonably required by the authority in order to
12 verify the receipt, donor identity, value, and eligibility for
13 the tax credit of contributions received by the organization.

14 b. (1) The organization is organized under chapter 504 and
15 qualifying under section 501(c)(3) of the Internal Revenue Code
16 as an organization exempt from federal income tax under section
17 501(a) of the Internal Revenue Code.

18 (2) A purpose of the organization is to serve or support
19 an organization certified as an eligible housing developer
20 pursuant to paragraph "a" of this subsection.

21 (3) The organization accepts contributions on behalf of
22 an organization certified as an eligible housing developer
23 pursuant to paragraph "a" of this subsection, and redistributes
24 any and all such contributions to that organization.

25 (4) The organization agrees to provide to the authority
26 information reasonably required by the authority in order to
27 verify the receipt, donor identity, value, and eligibility for
28 the tax credit of contributions received by the organization.

29 3. *Eligible rural housing developer.* In order to be
30 certified as an eligible rural housing developer, an
31 organization shall meet the requirements of paragraph "a" or
32 "b":

33 a. The organization meets the requirements of subsection
34 2, paragraph "a", and for the three years preceding the
35 application, the organization has conducted at least fifty-one

1 percent of its housing development activities in Iowa counties
2 with a population of fewer than fifty thousand as determined by
3 the most recent federal decennial census.

4 *b.* (1) The organization is organized under chapter 504 and
5 qualifying under section 501(c)(3) of the Internal Revenue Code
6 as an organization exempt from federal income tax under section
7 501(a) of the Internal Revenue Code.

8 (2) A purpose of the organization is to serve or support an
9 organization certified as an eligible rural housing developer
10 pursuant to paragraph "a" of this subsection.

11 (3) The organization accepts contributions on behalf of an
12 organization certified as an eligible rural housing developer
13 pursuant to paragraph "a" of this subsection, and redistributes
14 any and all such contributions to that organization.

15 (4) The organization agrees to provide to the authority
16 information reasonably required by the authority in order to
17 verify the receipt, donor identity, value, and eligibility for
18 the tax credit of contributions received by the organization.

19 4. *Length of certification and recertification.* Unless
20 certification is revoked pursuant to subsection 5, a
21 certification received pursuant to this section shall be valid
22 for a period of three years, at which time the organization
23 may apply to the authority in the manner prescribed by the
24 authority to become recertified as an eligible housing
25 developer or eligible rural housing developer pursuant to this
26 section.

27 5. *Revocation of certification.* An organization shall
28 notify the authority in a timely manner of any changes that
29 affect the organization's ability to qualify as an eligible
30 housing developer or eligible rural housing developer. The
31 authority shall revoke the certification of an organization
32 certified as an eligible housing developer or eligible rural
33 housing developer if that organization subsequently fails to
34 meet the requirements of subsection 2 or 3, as applicable.
35 The revocation of a certification under this subsection shall

1 not prohibit an organization from subsequently applying to be
2 certified as an eligible housing developer or eligible rural
3 housing developer under this section.

4 Sec. 5. NEW SECTION. 15E.156 Tax credit application —
5 maximum tax credits.

6 1. *Application.*

7 a. To receive a tax credit under section 15E.157, a taxpayer
8 must submit an application in the manner and form prescribed
9 by the authority on or after the date of the charitable
10 contribution to the eligible housing developer or eligible
11 rural housing developer for which a tax credit is sought. The
12 eligible housing developer or eligible rural housing developer
13 shall forward the application to the authority.

14 b. The authority shall issue tax credits and related tax
15 credit certificates on a first-come, first-served basis in
16 the order applications are received from eligible housing
17 developers and eligible rural housing developers until the
18 maximum amount of tax credits authorized pursuant to subsection
19 2 is reached. If for a calendar year the maximum amount
20 of tax credits applied for exceeds the amount specified in
21 subsection 2, the authority shall establish a wait list for
22 tax credits. Valid applications received but not approved
23 by the authority shall be placed on a wait list in the order
24 the applications were received by the authority and those
25 applicants shall be given priority for receiving tax credits in
26 succeeding calendar years. Placement on a wait list pursuant
27 to this paragraph shall not constitute a promise binding the
28 state. The availability of a tax credit and approval of a tax
29 credit application pursuant to this section in a future year
30 is contingent upon the availability of tax credits in that
31 particular year.

32 2. *Maximum tax credit amounts.*

33 a. The aggregate amount of tax credits issued pursuant to
34 this section shall not exceed a total of seven million dollars
35 per calendar year.

1 *b.* Twenty percent of the aggregate amount of tax credits
2 issued in a calendar year shall be reserved for charitable
3 contributions to an eligible rural housing developer.

4 *c.* (1) Except as provided in subparagraph (2), the maximum
5 amount of tax credits issued to any one taxpayer for charitable
6 contributions in a tax year shall not exceed two hundred fifty
7 thousand dollars.

8 (2) The maximum amount of tax credits issued to any one
9 taxpayer for charitable contributions in a tax year shall
10 not exceed three hundred thousand dollars if at least twenty
11 percent of the taxpayer's total charitable contributions made
12 during the tax year that are eligible for the tax credit in
13 section 15E.157 are to one or more eligible rural housing
14 developers.

15 Sec. 6. NEW SECTION. 15E.157 Homeownership development tax
16 credit.

17 1. *a.* A tax credit shall be allowed against the taxes
18 imposed in chapter 422, divisions II, III, and V, and in
19 chapter 432, and against the moneys and credits tax imposed in
20 section 533.329, equal to fifty percent of the amount of the
21 voluntary cash or noncash charitable contributions made by a
22 taxpayer during the tax year to an eligible housing developer
23 or eligible rural housing developer.

24 *b.* The charitable contribution must equal or exceed five
25 hundred dollars in order to qualify for the tax credit.
26 However, an eligible housing developer or eligible rural
27 housing developer may set a higher minimum qualifying amount
28 pursuant to rules prescribed by the authority.

29 2. The tax credit shall be claimed for the tax year during
30 which the taxpayer was issued the tax credit.

31 3. An individual may claim a tax credit under this section
32 of a partnership, limited liability company, S corporation,
33 estate, or trust electing to have income taxed directly to
34 the individual. The amount claimed by the individual shall
35 be based upon the pro rata share of the individual's earnings

1 from the partnership, limited liability company, S corporation,
2 estate, or trust.

3 4. Any tax credit in excess of the taxpayer's tax liability
4 for the tax year may be credited to the tax liability for the
5 following five years or until depleted, whichever occurs first.
6 A tax credit shall not be carried back to a tax year prior to
7 the tax year in which the taxpayer claims the tax credit.

8 5. a. To claim a tax credit under this section, a taxpayer
9 shall include one or more tax credit certificates with the
10 taxpayer's tax return.

11 b. The tax credit certificate shall contain the taxpayer's
12 name, address, tax identification number, the amount of the
13 credit, and any other information required by the department.

14 c. The tax credit certificate, unless rescinded by the
15 authority, shall be accepted by the department as payment for
16 taxes imposed pursuant to chapter 422, divisions II, III, and
17 V, and in chapter 432, and against the moneys and credits
18 tax imposed in section 533.329, subject to any conditions or
19 restrictions placed by the authority upon the face of the tax
20 credit certificate and subject to the limitations of this
21 chapter.

22 d. Tax credit certificates issued pursuant to this
23 subchapter shall not be transferred to any other person.

24 6. The amount of the charitable contribution for which the
25 tax credit is claimed shall not be deductible in determining
26 taxable income for state income tax purposes.

27 Sec. 7. NEW SECTION. 15E.158 Reports to general assembly.

28 The authority shall publish an annual report of the
29 activities conducted pursuant to this subchapter and shall
30 submit the report to the governor and the general assembly.
31 The report shall include a listing of certified eligible
32 housing developers and certified eligible rural housing
33 developers, the number of tax credit certificates and the
34 amount of tax credits issued by the authority, and the number
35 of taxpayers and the amount of tax applications on the tax

1 credit wait list, if any.

2 Sec. 8. NEW SECTION. 15E.159 Rules.

3 The authority and the department shall each adopt rules
4 pursuant to chapter 17A as necessary for the implementation of
5 this subchapter.

6 Sec. 9. APPLICABILITY. This Act applies to tax years
7 beginning on or after January 1, 2019.

8 Sec. 10. APPLICABILITY. This Act applies to charitable
9 contributions to eligible housing developers and eligible rural
10 housing developers made on or after January 1, 2019.

11 EXPLANATION

12 The inclusion of this explanation does not constitute agreement with
13 the explanation's substance by the members of the general assembly.

14 This bill creates a homeownership development tax credit
15 that will be administered by the economic development authority
16 (EDA) and that will provide tax credits to taxpayers who make
17 charitable contributions to eligible housing developers or
18 eligible rural housing developers in this state.

19 An "eligible housing developer" is defined in the bill to
20 include an Iowa nonprofit, tax-exempt organization that has
21 been developing single-family housing for at least three years
22 in this state to be sold to low-income households, as defined
23 in the bill, that includes the development of such housing in
24 this state for low-income households as a purpose in its bylaws
25 or other organizational documents, and that agrees to provide
26 EDA with certain information in order to properly verify
27 charitable contributions. An "eligible housing developer"
28 also includes an Iowa nonprofit, tax-exempt organization whose
29 purpose is to support an organization described above and who
30 redistributes any charitable contributions received on behalf
31 of that eligible housing developer to the developer.

32 An "eligible rural housing developer" is defined in the
33 bill to include an Iowa nonprofit, tax-exempt organization
34 that meets the requirements of an eligible housing developer
35 described above but that additionally has conducted for the

1 last three years at least 51 percent of its housing development
2 activities in Iowa counties with a population of fewer than
3 50,000 as determined by the most recent federal decennial
4 census.

5 An organization must apply to EDA to be certified as an
6 eligible housing developer or an eligible rural housing
7 developer. A certification by EDA will last for a period of
8 three years, at which time an eligible housing developer or
9 eligible rural housing developer may apply to be recertified.
10 Failure to meet the requirements specified above may cause the
11 organization to lose its certification as an eligible housing
12 developer or eligible rural housing developer, but the loss
13 of such certification does not prohibit an organization from
14 subsequently reapplying to EDA for certification.

15 In order to receive a tax credit for a charitable
16 contribution to an eligible housing developer or eligible rural
17 housing developer, a taxpayer is required to apply to the
18 developer in the manner and form prescribed by EDA on or after
19 the date the charitable contribution is made. The developer is
20 then required to forward the application to EDA.

21 The tax credit equals 50 percent of the amount of the cash or
22 noncash charitable contribution made to the eligible housing
23 developer or eligible rural housing developer during the tax
24 year. The minimum amount of charitable contribution that may
25 qualify for the tax credit is \$500, but each eligible housing
26 developer or eligible rural housing developer is allowed to
27 set a higher minimum contribution amount. The bill provides
28 that EDA shall not issue more than \$7 million in tax credits
29 per calendar year. Of that \$7 million maximum aggregate
30 amount, 20 percent (\$1.4 million) of the tax credits shall
31 be reserved for charitable contributions to eligible rural
32 housing developers. The maximum amount of tax credits that
33 may be issued per taxpayer for charitable contributions in a
34 tax year is \$250,000, or \$300,000 if at least 20 percent of
35 the taxpayer's total charitable contributions to the eligible

1 housing development organizations during the tax year were to
2 one or more eligible rural housing developers.

3 The tax credit may be claimed against the individual income
4 tax, the corporate income tax, the franchise tax, the insurance
5 companies tax, and the moneys and credits tax. To claim a tax
6 credit, a taxpayer must include a tax credit certificate with
7 the taxpayer's tax return. The tax credit is nonrefundable
8 and nontransferable, but any excess may be carried forward for
9 five tax years. The amount of the charitable contribution for
10 which the tax credit is claimed shall not be deductible in
11 determining taxable income for state tax purposes.

12 EDA is required to issue tax credits on a first-come,
13 first-served basis until the maximum amount of \$7 million
14 per calendar year is reached. If the amount of tax credit
15 applications exceeds \$7 million in a calendar year, EDA
16 is required to establish a wait list and give priority in
17 subsequent years to applications on the wait list.

18 The bill requires EDA and the department of revenue to
19 adopt rules as necessary for the implementation of the bill,
20 and requires EDA to publish and submit annual reports to
21 the governor and general assembly containing information as
22 described in the bill.

23 The bill applies to tax years beginning on or after January
24 1, 2019, and to charitable contributions to eligible housing
25 developers and eligible rural housing developers on or after
26 that date.